

S/N 09/599,051

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants:	Michael J Witz et al.	Examiner: Daniel Kesack
Serial No.:	09/599,051	Group Art Unit: 3691
Filed:	June 21, 2000	Docket: 2043.197US1
Title:	COMMUNITY BASED FINANCIAL PRODUCT	

APPELLANTS' REPLY BRIEF UNDER 37 C.F.R. § 41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Examiner's Answer mailed December 10, 2008, please see the remarks below:

REMARKS

Applicant requests to maintain the appeal with the Board. Following are Applicant's remarks in response to the Examiner's rejection including the new grounds of rejection under 35 U.S.C. Section 101 rejecting claims 1-12.

I/ Rejections Under 35 U.S.C. 101 :

Claim 1 recites in part:

“receiving over a wide-area network (WAN) an indication of a preference of a user from a first population of users that form a virtual community, wherein the first population of users is identified as investment analysts, and wherein the preference from the user is a selection of an investment or an allocation for the investment that the user provides to the virtual community; aggregating the preference into a database of previously received preferences from the first population, the aggregation being a set of preferences; and deriving a financial product for a second population of users in response to the set of preferences, the second population of users identified as investors.”

(Emphasis added.)

Claim 1 includes the limitation that the indication of a preference of a user is received over a wide-area network (WAN). In addition, claim 1 also includes the limitation that the preference is aggregated into a database. Applicant submits that these limitations are tied to patentable subject matters. Further, claim 1 also includes the limitation that the financial product is derived in response to the preferences. Applicant submits that this limitation satisfies the transformation requirement. Applicant submits that, at least for the above reasons, the 101 rejection for claim 1 is overcome. Since claims 2-12 depend from and further limit claim 1, their 101 rejections are also overcome.

II/ Rejections Under 35 U.S.C. 102 and 103

It appears that the Examiner objects to the usage of Wikipedia as being improper evidence and then proceeds to state that the “virtual community” definition of Wikipedia is consistent with the Reese usage or mail lists. Firstly, Applicant did not offer Wikipedia as

evidence it was being offered as but one example of a definition for “virtual community” that Applicant believes supports its opinion that the Reese reference completely lacks a “virtual community.” Applicant is still of this opinion in even view of the Examiner’s remarks.

Specifically, the Examiner contends that Reese supplies email lists and contends that this is a “virtual community.” Applicant would like to direct the Board’s attention to column 60 of Reese line 15. This is the only instance in which email is discussed at all the Reese reference. Here, this email does not include an email list as the Examiner asserts to be the case in Reese. The context of “email” is used to describe a notification to a “particular user” when a recommendation source has created a new list of recommendations. Contrary to what The Examiner proposed, this reference does not report the recommendations it reports whether a recommendation source has a new recommendation but not the recommendation itself, and it does not use email list it is a one-off email to a user. In fact, there is no community at all in this reference of Reese; it is a single one-off email that is sent. Thus, contrary to what the Examiner has asserted. Applicant contends there are no mailing lists at all in Reese.

Moreover, even with the most generous definition of “virtual community” the Reese reference fails to identify, teach, or use such a definition. Applicant also notes that in Applicant’s opinion no reasonable person of ordinary skill in the art would view a mail list as a virtual community because by today’s standards a certain degree of interactive and social collaboration is what defines a virtual community. Again, this is just the opinion of the Applicant; but, Applicant also notes that even if the Board is to use the broadest possible interpretation as proposed by the Examiner, the Reese reference still completely fails to teach a “virtual community.”

Next, there is absolutely no ability in Reese for the “user” to make recommendations. Applicant brought this point up in the original Appeal Brief and it does not appear to have been addressed at all by the Examiner in the Answer. The analysts of Reese are not the inventors and therefore there is no ability in Reese and no teaching whatsoever where a user or inventor makes a recommendation to the community. In Reese it is the analysts not an investor making a recommendation. Again, this point just illustrates and highlights that there is no “virtual” community in Reese where all members interact and socially make decisions with one another or collaborate with one another. The Examiner appears to be trying to illogically forge a broad

definition of virtual community and analysts to achieve a rejection even when it lacks common sense when viewed from the eyes of one of ordinary skill in the art. Applicant believes this is improper.

Again, the Examiner contends that the aggregated financial report is emailed to inventors in column 60 lines 8-15 when arguing that a derived financial product is produced via Reese. Applicant encourages the Board to read this passage in its entirety. The passage says a notification is sent that a new recommendation was made by a source, not that the recommendations are sent via email. *Emphasis added.*

The passage of the specification recited by the Examiner states that the “preferences may be used as a basis for . . .” *Emphasis added.* This does not state that the preferences are the financial product; it only states that the preference help in forming the financial product. There is no financial product derived in Reese at all. Reese simply summarizes financial products. Applicant again respectfully disagrees with how the Examiner is interpreting this information and selectively interpreting portions of the specification and the references and some times in incongruent manners to reach the desired end. Applicant believes that this is improper and in some cases as stated above miss interpreted entirely incorrectly.

Thus, Applicant respectfully requests that the Board remove the rejections of record and allow the claims, as the Reese reference completely fails in many aspects to teach or suggest each and every limitation of the rejected claims.

CONCLUSION

Appellants respectfully submit that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Appellants' attorney at (408) 278-4059 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Date February 10, 2009

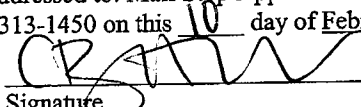
By


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